

REMARKS

The instant application is a reissue application of U.S. Patent No. 6,453,767 to Willemsen et al. which, when granted, included claims 1-5. Upon review of the granted patent it was determined that the original patent was partially inoperative or invalid due to the failure of the patentee claiming less than the patentee had a right to claim in the patent. This inadvertent error occurred through inadequate communication between Applicants and their patent attorney during the original prosecution of the patent application which resulted in the original patent.

As such, the Applicants filed the instant reissue application which adds new claims 6-10 to rectify the above-described error.

In the Office Action dated March 3, 2009, the Examiner has rejected claims 1-10 as being based upon a defective reissue declaration under 35 U.S.C. §251. The Examiner states that the previous reissue oath/declaration filed is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue application can be based.

In response, Applicants submit that the concurrently filed reissue oath/declaration, attached as Exhibit A, properly states an error upon which a reissue application can be based. Specifically, claim 1 as granted is overly limiting as it includes a limitation stating that the pedal adjuster includes a "drive mechanism mounted to said bracket." However, this limitation does not cover embodiments disclosed in the specification in which the drive mechanism is not mounted to the bracket. As such, Applicants believe the original patent to be partially inoperative or invalid by reason of the patentee claiming less than the patentee had a right to claim in the patent as the specification discloses embodiments in which the drive mechanism extends between the adjuster member and the pedal arm rather than being mounted to the bracket.

For all of the foregoing reasons, Applicants respectfully submit that the above grounds of rejection are overcome and, therefore, should be withdrawn. In addition, Applicants respectfully submit that claims 1-10 having overcome the only ground of rejection are now in condition for allowance and respectfully request that such action should be taken. Any questions, comments or suggestions the Examiner may have which would place the application in still a better condition for allowance should be directed to the undersigned attorney.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 07-1180.

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Respectfully submitted,

By 

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